IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)
WEDNESDAY, THE TWENTY THIRD DAY OF JUNE
TWO THOUSAND AND FOUR
PRESENT
THE HON'BLE MR JUSTICE K.C. BHANU
WRIT PETITION NO : 8372 of 2004

Between:

Vatsavai Dhamodarachari, S/o. Lingachari, aged about 45 years. Driver in APSRTC(under suspension), Khammam District.

..... PETITIONER

AND

1 The Depot Manager, A.P. State Road Transport Corporation, Sathupally Depot, Sathupally, Khammam District.
2 The Enquiry Officer, Office of the Regional Manager, A.P. State Road Transport Corporation, Khammam, Khammam District.

...RESPONDENTS.

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to to issue a Writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the show cause notice of removal from service issued by the 1st respondent in APSRTC No.PA/95(174)/2003-SPL, dated 22-4-2004 as highly illegal, arbitrary, unjust, improper and volatile of principles of natural justice and consequently set aside the same.

Counsel for the Petitioner: MR.BADANA BHASKARA RAO

Counsel for the Respondents: SMT.G.JYOTHI KIRAN

the Court made the Following :

ORDER:

The Writ petition is filed to declare the show cause notice issued by the first respondent in APSRTC PA/95(174)/2003.SPL, dated 22.4.2004 as illegal arbitrary and unjust.

On 12-12-2003, the officials of the first respondent corporation checked the vehicle in which the petitioner was driver and found the cash and ticket irregularities. Thereafter, charge memo was issued and departmental enquiry was conducted. In the enquiry conducted, the charges framed against the delinquent are proved. The Disciplinary Authority accepted the enquiry report and issued the impugned show cause notice calling upon the petitioner to show cause within seven days from the date of the notice as to why he should not be removed from service for the irregularities committed by him.

The learned counsel for the petitioner vehemently contended that the Enquiry Officer failed to give an opportunity to the delinquent-employee to cross-examine one of the witnesses, V. Raju, and that therefore, the entire proceedings initiated against the petitioner and the report of the Enquiry Officer are against the principles of natural justice.

The first respondent contended that though an opportunity was given to the petitioner to cross examine the witness in the departmental enquiry, he has not availed the same and therefore, it cannot be said that the enquiry conducted is in violation of the principles of natural justice. Normally, this Court will not interfere with the show cause notice issued unless there is gross violation of the principles of natural justice or the disciplinary authority is not proper authority to conduct the enquiry. It is not in dispute that the disciplinary authority who has

ordered the enquiry has got jurisdiction. The question is whether the enquiry officer violated the principles of natural justice or not so as to call for interference of this court. After submitting the report by the Enquiry Officer, while supplying copy of the enquiry report and statement of witness, a letter was issued to the writ petitioner to raise objection, if any, for conducting a detailed enquiry within seven days from the date of receipt of the letter. Thereafter, no orders have been passed in pursuance of this letter dated 12-03-2004 for which the writ petitioner gave a reply stating that an opportunity may be given to him to cross-examine the witness V.Raju to prove his innocence. But having allowed the writ petitioner to raise an objection with regard to the conduct of detailed enquiry, the disciplinary authority ought to have given an opportunity to the petitioner to cross-examine the witness V.Raju, according to learned counsel for writ petitioner.

The only grievance of the petitioner is that he was not given an opportunity to cross-examine the witness V.Raju. But, as seen from the enquiry report, it is clear that an opportunity was given to the writ petitioner to cross-examine the witness V.Raju on the same day when he gave the statement before the Enquiry Officer, but the petitioner failed to avail the same. But, after the enquiry and after enquiry officer had submitted the report, the writ petitioner had requested the disciplinary authority to permit him to cross-examine V.Raju. Even though an opportunity was given to the petitioner to cross-examine the witness, he has not availed the same which is clear from the record. Therefore, the impugned order does not suffer from any legal infirmities so as to call for any interference by this court. Any observation made in this writ petition is only for the purpose of disposal of the present petition and it is made it clear that these observations shall not be taken into consideration for passing appropriate orders in pursuance of the show cause notice.

The learned counsel for the petitioner also brought to the notice of this Court that after show cause notice the present writ petition is filed, and therefore, he is not in a position to give explanation to the show cause notice dated 22-4-2004, and therefore, an opportunity may be given to him to give an explanation. The learned counsel for the respondent does not oppose the same. Since the petitioner approached this Court, an opportunity can be given to the writ petitioner to give an explanation within a period of one week from the date of receipt of the copy of this order and the first respondent corporation is at liberty to pass appropriate orders thereafter un-influenced by any observations made by this Court in this writ petition. Accordingly, this Writ Petition is disposed of. No order as to costs.

DVS

ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1 The Depot Manager, A.P. State Road Transport Corporation, Sathupally Depot, Sathupally, Khammam District.
2 The Enquiry Officer, Office of the Regional Manager, A.P. State Road Transport Corporation, Khammam, Khammam District.
3. Two CDs.

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